

THE JUDICIARY OF ZAMBIA



SUPREME COURT

SIMPLIFIED COURT PROCESSES AND PROCEDURES



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FOREWORD

The Judiciary is one of the three arms of Government mandated to interpret the law and administer justice. It is created under Part VIII of the Constitution of Zambia and it is headed by the Chief Justice. The Court system consists of four superior courts namely: the Supreme Court and the Constitutional Court which rank equivalently; the Court of Appeal and the High Court. The other Courts are the Subordinate Courts, the Small Claims Courts, the Local Courts and those that may be prescribed.

In a continued effort to improve service delivery and to effectively and efficiently administer justice in a timely and impartial manner, the Judiciary has developed simplified court procedures in this Service Charter for the benefit of its clients (court users and the general public). The Charter is not intended to be exhaustive but highlights the significant aspects in the practice and procedure of the Court.

The Service Charter has been made possible through the collaborative input of the Judiciary and Transparency International Zambia. It is hoped that the public will find this Charter helpful.

Hon. Mr. Justice Michael Musonda, SC
Acting Chief Justice of the Republic of Zambia

2021

ACKNOWLEDGEMENTS

In the preparation of the material contained in this Service Charter, care has been taken to present the information in accordance with the law and practice in the Court as at the time of publication. It gives an insight of the services the Court offers, as well as the practice and procedure. To enhance access to justice, the material in this Charter has been simplified for the benefit of Court users and especially members of the public.

We would like to take this opportunity to express our special gratitude to Transparency International Zambia for their technical and financial support in designing and printing this charter. We are grateful for this collaboration and their commitment in the fight against corruption and promoting integrity in public institutions. We commend Transparency International Zambia for their efforts and urge them to continue.

Additionally, we would like to thank the Honourable Judges who took time from their busy schedule in reviewing and validating this Charter.

We wish to thank, in a special way, the untiring efforts and contributions made by the Committee constituted for the purpose of refining and scrutinizing this Charter which drew members from the Judiciary Integrity Committee, Advisory Committee on Public Relations and Information and others from within the Judiciary.

We must reiterate that this is one of the several efforts that the Judiciary has embarked on in its quest to administer transparent and accountable justice.

Hon. Mr. Justice Jones Chinyama
**Judge of the Supreme Court and Chairperson - Advisory Committee on Public
Relations and Information of the Judiciary of Zambia**

2021

BACKGROUND INFORMATION

The Supreme Court is established under Article 124 of the Constitution as amended by the Constitution of Zambia (Amendment) Act No. 2 of 2016. The Supreme Court is created by the Supreme Court of Zambia Act, Chapter 25 of the Laws of Zambia. It is the final court of appeal, except for constitutional matters which are reserved for the Constitutional Court. The Court consists of the Chief Justice, the Deputy Chief Justice and eleven (11) other judges. The Supreme Court of Zambia ranks equivalently with the Constitutional Court.

SERVICES OFFERED AT THE SUPREME COURT REGISTRY

The Registry is open to members of the public from Monday to Friday from 09:00 to 13:00 hours and from 14:00 to 15:30 hours. The services offered include:

- attending to Court users and guiding them on appeals and other Court processes;
- receiving and filing Court documents;
- issuing receipts once there is proof that a payment has been deposited at the Bank for court fees;
- keeping of Court files;
- scanning of Court documents;
- certification of documents;
- commissioning of Affidavits; and
- notarization of documents.

JURISDICTION AND SITTINGS OF THE SUPREME COURT

- The Supreme Court has jurisdiction to hear civil and criminal appeals from the Court of Appeal. It also has limited jurisdiction to hear appeals from the High Court where the matter (Petition) arises under Part III (the Bill of Rights) of the Constitution.

- An appeal to the Supreme Court will only be heard with leave (permission) of the Court of Appeal (or High Court as the case may be). Where the Court of Appeal(or the High Court) refuses to give permission, the applicant can ask for permission from the Supreme Court to appeal to the Supreme Court.
- Permission to appeal from the Court of Appeal to the Supreme Court is granted only if:
 - the appeal, whether in a civil or criminal matter, raises a point of law of public importance;
 - it is in the public interest that an appeal by the person convicted in a criminal matter should be heard by the Supreme Court;
 - the appeal, whether in a civil or criminal matter, has high prospects or chances of success; or
 - there is some other convincing reason for the appeal, whether in a civil or criminal matter, to be heard by the Supreme Court.

NOTE 1:

The Supreme Court ordinarily sits to hear appeals during sessions in Lusaka, Kabwe and Ndola. The Court can also sit at any other place that may be appointed by the Chief Justice in a document called a circuit schedule.

GENERAL PROCEDURE FOR INTERLOCUTORY APPLICATIONS AND MOTIONS

- Interlocutory applications (applications other than the main appeal) before the Supreme Court are made to a single judge.
- Where any application is refused by a single judge, that application can be renewed before the Court, that is a panel of at least three judges of the Court.
- The application to the Court will be made by filing a notice of motion or summons together with an affidavit and detailed typed arguments.

POOR PERSONS

- A person lacking means to process and file an appeal can apply to a single Judge, at no cost, for permission to be assisted by the Court to file the appeal.
- The assistance by the Court will not be given as a matter of right. The Applicant must convince the Court that they indeed need help with the appeal process.

CIVIL APPEALS PROCEDURE

- As already noted, leave (permission) to appeal to the Supreme Court must be obtained from the Court of Appeal (or the High Court for matters under the Bill of Rights). Where leave is denied an application for leave may be made before a single Judge of the Supreme Court. The application for leave is by way of summons or notice of motion and must be accompanied by an affidavit.
- When leave is granted, a person appealing must file a notice of appeal together with the memorandum of appeal (document which contains the grounds or the reasons for the appeal) within 30 days from the date of judgement.
- Sixteen (16) copies of the record of appeal and heads of argument (detailed typed arguments), prepared by the person seeking to appeal must be filed within sixty (60) days from the date of filing the Notice of Appeal and the Memorandum of Appeal.
- Where good reasons are given for failure to file the record of appeal within the prescribed time, a party may ask the court to appeal out of time.
- The appellant should produce proof of payment before a GRZ receipt can be issued.
- The appellant will serve process on the respondent (give the respondent copies of the appeal documents) and there should be proof of service in the form of an affidavit of service.
- The court will set a hearing date and the parties will be informed accordingly.

HEARING OF CIVIL APPEALS

- The hearing in the Supreme Court is based on heads of arguments (filed detailed typed arguments) and oral arguments made at the hearing. However, the Supreme Court may call a witness to appear before it, where appropriate.
- Where a party does not wish to attend the hearing and has filed detailed typed arguments, he may file a notice of non-attendance and the Court will proceed to deliver its judgment based on the arguments filed before the Court.

DELIVERY OF CIVIL JUDGMENTS/RULINGS

- After the Supreme Court has heard the appeal or application, the Court may pronounce its decision there and then or may inform the parties when the judgment/ruling of the Court will be given. The Court may also reserve the date of judgment/ruling to a later time to be communicated to the parties once it is ready.
- The Court may, in civil cases, give permission to the Master of the Supreme Court to read the Judgment/Ruling on its behalf.
- When the Court makes an order in open Court in a civil matter, it is the duty of a successful party to prepare, without delay, the Order in writing (typed) and submit it for signature by the Judge(s).

ENFORCEMENT OF CIVIL JUDGMENTS/RULINGS

- All judgments/orders of the Supreme Court, except an award for costs, are executed (enforced) by the High Court (Refer to the High Court Service Charter for modes of execution).

- Enforcement of the judgment can only take place after at least three days from the date of judgment unless the Court directs otherwise.

COSTS AWARDED IN A JUDGMENT/RULING

- where the court has awarded costs and the parties do not agree on the amount due to the winning party, an application can be made before the Registrar for taxation of costs.
- When the Registrar determines the costs, enforcement is by issuing a writ of Fieri Facias (FiFa) in the High Court.

NOTE 2:

A judgment/ruling delivered by the full court (three or more judges) is final and no appeal can lie against it. However, a party may still have recourse (come back to the Court) to correct portions of the judgment/ruling occasioned by accidental slips, omissions, mistakes or errors.

CRIMINAL APPEALS PROCEDURE

- A notice of intention to appeal or application for leave to appeal should be made in writing (typed) in the prescribed form. Four copies of the notice are filed with the Master of the Court of Appeal within 14 days from the date of the judgment appealed against.
- A party wishing to appeal to the Supreme Court must ask for permission from the Court of Appeal. Where permission is refused by the Court of Appeal, a person may renew the application before the Supreme Court.
- Where the Court of Appeal has refused to give a person permission to appeal out of time, an application can be made to a single Judge of the Supreme Court.
- Where leave is granted, the notice of intention to appeal is filed with the Master of the Court of Appeal.

- The Master of the Court of Appeal will then proceed to prepare, on behalf of the parties, 16 copies of the record of appeal. (The copies are then transmitted to the Master of the Supreme Court).
- The record of appeal is served (given to all parties) by the Court. However, the parties prepare their own detailed typed arguments and serve the same on each other.
- The Court will set a hearing date and the parties will be informed of the hearing date by the Court.

HEARING OF CRIMINAL APPEALS

- A person appealing (appellant) is entitled to be present at the hearing of an appeal or any other application that is made to the Court. However, where the person is represented by a lawyer, he may inform his lawyer that he does not want to appear before the Court and the lawyer will appear on his behalf. The Court will then proceed to hear the appeal in his absence.
- A convict who has appealed may abandon (withdraw) the appeal at any time after filing the notice of appeal but before Judgment, in which case the appeal will be dismissed.

DELIVERY OF CRIMINAL JUDGMENTS/RULINGS

- After the Supreme Court has heard the appeal or application, the Court may pronounce its decision there and then or may inform the parties when the judgment/ruling of the Court will be given. The Court may also reserve the date of judgment/ruling to a later time to be communicated to the parties once it is ready.
- The Court may, in a criminal appeal, pass sentence in the absence of a party.

FEES PAYABLE IN THE SUPREME COURT

Document	Amount (Kwacha)
FILING AFFIDAVIT	15.00
BILL OF COSTS FOR TAXATION	20.00
CERTIFICATE OF URGENCY	40.00
ORDER	30.00
ANY NOTICE OTHER THAN APPEAL	30.00
NOTICE OF MOTION	150.00
NOTICE OF APPEAL	150.00
MEMORANDUM OF APPEAL	20.00
NOTICE OF CROSS APPEAL	150.00
SUPPLEMENTARY RECORD	41.00
SEARCH	20.00
NOTICE OF TAXATION	20.00
CERTIFICATE PER COPY/COMMISSIONING	20.00
RECORD OF APPEAL	41.00
CERTIFICATE OF TAXATION	41.00
JUDGMENT PER PAGE	31.00
TRANSCRIPT PER PAGE	10.00
SUMMONS	15.00
SUMMONS FOR RESTORATION	50.00
NOTICE OF TAXATION	40.00
RESTORATION AFFIDAVIT AND SUMMONS (CHAMBER APPLICATION)	50.00
EXTRACTION OF COURT DOCUMENTS/RECORD PER PAGE	15.00
SERVICE OF COURT PROCESS/APPLICATION PER KILOMETRE	10.00

NOTE: The fees payable in the Supreme Court are stipulated in fee units. To arrive at the amount payable, a conversion rate of 30 ngwee (Statutory Instrument No. 41 of 2015) for each fee unit is used.

HOW CORRUPTION CAN BE AVOIDED AT THE SUPREME COURT

- 1) Members of the public should follow the law and court procedures and rules to obtain a service and should desist from offering bribes in order to speed up their cases or acquire an order, ruling or judgment in their favour.
- 2) Members of the public should seek services only from prescribed officers and offices and not in the streets, court corridors, car parks, etc.
- 3) Members of the public should familiarize themselves with the prescribed fees and should demand official Government receipts for any payments at Court.
- 4) Any suspected exorbitant fees should be reported to supervising officers at the court.
- 5) All cases of suspected corruption should be reported to relevant authorities.
- 6) When in doubt as to any Court order or procedure, the Master of the Supreme Court should be immediately contacted.
- 7) Court officials should at all times work professionally in accordance with the Code of Conduct and Ethics.

COMPOSITION OF THE AD HOC COMMITTEE MEMBERS

The ad hoc committee that compiled this Charter comprised the following members:

- 1) Mr. Rodgers K. Kaoma – Registrar, Supreme Court
- 2) Mr. Prince B. Mwiinga – Registrar, Commercial Division
- 3) Mr. Vincent Siloka – Registrar, Local Courts
- 4) Ms. Gwen Mumba – Deputy Director, Human Resources Information Planning
- 5) Mrs. Ruth MbambiChilembo - Senior Research Advocate
- 6) Mr. Sangwani Nyimbiri - Senior Research Advocate
- 7) Mrs. Anastasia Lungu Elbert – Master, Supreme Court
- 8) Mrs. Mable NjekwaMwaba – Master, Constitutional Court
- 9) Mr. Emmanuel Lubeta – Senior Local Courts Officer
- 10) Mrs. Kalumba V.C. Slavin – Public Relations Officer

THE JUDICIARY OF ZAMBIA

Vision: To provide timely and accessible justice to all.

Mission: To adjudicate civil, criminal and constitutional matters in an independent, impartial and timely manner without fear or favour.

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TRANSPARENCY INTERNATIONAL ZAMBIA

Vision: A Zambia anchored on citizens and institutions of integrity.

Mission: A leading anticorruption crusader contributing to the development of a Zambian society based on a culture of transparency and accountability through the promotion of good governance and zero tolerance to corruption.

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